

27 July 2020

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**Expert Group to Conduct a Comprehensive
Study on Cybercrime**

Vienna, 27–29 July 2020

Draft report**Addendum****II. List of preliminary recommendations and conclusions**
*(continued)***A. International cooperation**

1. In some interventions it was recommended that the CCPCJ should renew the mandate of this IEG on cybercrime and decide upon a workplan beyond 2021, which should also include emerging forms of cybercrime and the examination of issues related to online sexual abuse and exploitation of children.
2. Further, it was recommended that the open-ended intergovernmental ad hoc committee of experts established pursuant to General Assembly resolution 74/247 on the elaboration of a comprehensive international convention on countering the use of information and communications technologies for criminal purposes should only start its work after the IEG has concluded its recommendations and sent them to the CCPCJ in 2021.
3. However, in another intervention it was stated that there was no need for the continuation of the work of the IEG beyond 2021, in view of the adoption of General Assembly resolution 74/247. This will enable a focus on the implementation of that resolution and the negotiation of a new convention, as well as make best use of financial resources available.
4. In their interventions some Member States welcomed the adoption of General Assembly resolution 74/247. It was stated that the elaboration of the new convention, pursuant to General Assembly resolution 74/247, should be inclusive, transparent and be based on consensus for which the earlier United Nations processes to conclude UNTOC and UNCAC may stand out as an example.
5. There were calls for the active participation of all Member States in the elaboration of the work of the Ad Hoc committee to develop a new convention.
6. At the same time in other interventions it was also stated, that, in terms of content, any new convention should take into account, and not be in conflict with, existing frameworks and instruments. It was recommended that the issues of cross-border collection of evidence, criminalization provisions and respect for sovereignty should be included in a possible new convention.



7. The international community should prioritize the provision of capacity-building and other support to strengthen the ability of national authorities to respond to cybercrime and in particular to child sexual abuse and exploitation online.
8. Member States should afford each other mutual legal assistance to obtain electronic evidence to the widest extent possible, including in cases involving ICTs to commit or incite terrorism or the financing of terrorism; it was furthermore stated that private sector entities had responsibilities to cooperate with national authorities in this regard.
9. Member States should consider investing in specialized centralized cybercrime forces as well as in regional technological units for criminal investigations.
10. Member States should also consider establishing separate cybercrime units within central authorities for mutual legal assistance as a base of expertise in this complex area of international cooperation. Such specialized units not only provide benefit in the day-to-day MLA practice, but also allow for focused capacity-building assistance such as training to address the needs of domestic and foreign authorities on how to obtain MLA assistance involving electronic evidence quickly and efficiently, in cyber-related matters.
11. Member States should consider maintaining electronic databases that facilitate access to statistics relating to MLA incoming and outgoing requests involving electronic evidence, to ensure that reviews of efficiency and effectiveness are in place.
12. Member States should be reminded to utilize the key role of Central Authorities in transmitting MLA requests and in working with competent authorities for the execution of MLA requests to ensure compliance with existing treaties and to reduce delays in the process.
13. For acquiring data to conduct investigations of cybercrime acts, States should build on tried and tested international instruments, whereas this complex subject requires an institutional framework that has proven its resilience and added value. The Budapest Convention which has been a standard in acquiring electronic evidence over the years, yielding concrete results on a daily basis for law enforcement agencies around the world, was highlighted in this respect. Also, it was recommended that States reduce conflicts of law regarding applicable legal requirements, by taking into account, in case of direct production orders, the legislation of the state where the requested ISP is located or the legislation of the state of the suspect as starting points.
14. It is recommended to create a framework where it is clear that in case of “loss of location” the decision to proceed investigation requires an effort to establish which territory is affected and where the integrity of automated networks is vital in order to be able to consult on matters of jurisdiction and the most appropriate way to continue the investigations.
15. It was recommended that international law should be applicable in cyberspace, including the principles of sovereignty, territorial integrity and non-intervention in domestic affairs, that ICTs should not be employed as weapons and that State-sponsored attacks must be condemned and those responsible should be held accountable.

IV. Organization of the meeting (*continued*)

C. Statements

16. Statements were made by experts from the following Member States: Australia, Austria, Azerbaijan, China, Cuba, France, Germany, Greece, Honduras, Hungary, Indonesia, Islamic Republic of Iran, Iraq, Israel, Italy, Japan, Mongolia, New Zealand, Nigeria, Paraguay, Philippines, Poland, Spain, Thailand, United Kingdom, and Venezuela (Bolivarian Republic of).

17. Statements were also made by representatives of the following intergovernmental organizations, the Council of Europe, European Union, and International Criminal Police Organization. Furthermore, a statement was made by one observer, the Beijing Normal University.
